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IN THE SUPREME COURT  
STATE OF ARIZONA

In the Matter of	)	
	)	Supreme Court No. R-17-0002
PETITION TO AMEND THE	)	
ARIZONA RULES OF	)	COMMENT
CRIMINAL PROCEDURE	)	
_____	)	

Pursuant to Rule 28 of the Arizona Supreme Court, David K. Byers, Administrative Director and Chair of the Supreme Court Task Force on Fair Justice for All submits this Comment addressing Rule 6.1, ARCrImP.

In December 2016, this Court approved an amendment to Rule 6.1(b), ARCrImP, effective April 3, 2017, in response to a rule change petition filed by the Supreme Court Task Force on Fair Justice for All (R-16-0041). The amendment came too late in the year to be included in the petition filed in this matter by the Task Force on the Arizona Rules of Criminal Procedure.

The amendment requires appointment of counsel in misdemeanor cases to ensure an indigent defendant who would otherwise be eligible for release pending trial does not remain incarcerated due to an inability to pay for an appearance bond.

A justice court administrator, after consulting with local prosecutors and defense attorneys, has recently expressed concern that the amended rule could be interpreted to require the appearance of defense counsel at the initial appearance. This was not the intent of the Fair Justice Task Force and therefore, to respond to this concern, the AOC suggests the following clarifying amendment:

*[Proposed modification shown to the Rule as it was adopted by this court in R-16-0041]*

**Rule 6.1. Rights to counsel; waiver of rights to counsel**

(b) *Right to Appointed Counsel.* An indigent defendant is entitled to have an attorney appointed:

(1) For the limited purpose of determining release conditions, if detained ~~pretrial~~ at or following the initial appearance after misdemeanor ~~criminal~~ charges are filed;

\* \* \*

Respectfully submitted this 9th day of March, 2017.

/S/  
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